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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,185	06/20/2003	Annette M. Wagner	SUNMP327	8835
32291	7590	10/31/2007	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP			TRAN, MYLINH T	
710 LAKEWAY DRIVE			ART UNIT	PAPER NUMBER
SUITE 200			2179	
SUNNYVALE, CA 94085				
MAIL DATE		DELIVERY MODE		
10/31/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,185	WAGNER, ANNETTE M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mylinh Tran	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 July 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-5,7,8,10-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 3-5, 7-8, 10-18 and 20-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

Art Unit: 2179

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's Amendment filed 07/03/07 has been entered and carefully considered. Claims 1, 18 and 22 have been amended. However, the limitations of the amended claims have not been found to be patentable over newly discovered prior art. Therefore, claims 1, 3-5, 7-8, 10-18 and 20-22 are rejected under the new ground of rejection as set forth below.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Art Unit: 2179

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3-5, 7, 8, 10-18 and 20-22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-5, 7, 8, 10-19 and 21-23 of U.S. Patent No. 10/600,884. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both disclose the same method of traversing the main portion to a tertiary tab, wherein traversing the main portion to the tertiary tab includes opening the tertiary tray by highlighting the tertiary tab, wherein opening the tertiary tray includes displaying the tertiary tray in the mobile device display, the tertiary tray including a second icon.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-5, 7-8, 10-18 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Smethers [US. 2004/0142720].

**As to claims 1 and 18,** Smethers teaches highlighting a first icon (figure 5A-5D) in a main portion of the mobile device display; traversing the main portion to a tertiary tab, wherein traversing the main portion to the tertiary tab (page 3, 0038) includes opening the tertiary tray by highlighting the tertiary tab (0093), wherein opening the tertiary tray includes displaying the tertiary tray in the mobile device display (0094-0096), and wherein opening the tertiary tray includes rearranging only a portion of the main portion of the mobile device display such that the first icons is visible in the main portion of the mobile device display (figures 4A-4D, page 4, 0049), the tertiary tray including second link (figures 5A-5D, pages 6-7, 0062-0066); and highlighting the second link, wherein a single navigation key is used to traverse the main portion and to highlight the second link (figures 5A-5D); wherein the tertiary tray being adjacent to a vertical edge of the mobile device display (figure 5A).

**As to claim 3,** Smethers teaches the tertiary tray including at least one scroll button and selecting the scroll button cause a third link (figure 5A, 501) to be displayed in the tertiary tray.

**As to claim 4,** Smetheres also teaches selecting the scroll button including shifting the second icon (figure 5A, 501).

**As to claim 5,** Smethers et al. teach shifting the second icon including not displaying the second icon in the tertiary tray (figures 5A-F).

**As to claim 7,** Smethers et al. teach opening the tertiary tray including covering at least part of the main portion of the mobile device display (figures

5A-F).

**As to claim 8,** Smethers et al. also teach covering at least part of the main portion of the mobile device display including covering at least part of the first icon (figure 5C).

**As to claim 10,** Smethers et al. teach opening the tertiary tray including scaling at least part of the main portion of the mobile device display (figures 6A-D).

**As to claim 11,** Smethers et al. also teach opening the tertiary tray including shifting at least part of the main portion of the mobile device display (figures 4A-D).

**As to claim 12,** Smethers et al. teach selecting the second icon (figure 5F).

**As to claim 13,** Smethers et al. also teach selecting the second icon initiating an application corresponding to the second icon (figures 5F and 6A).

**As to claim 14,** Smethers et al. teach selecting the second icon closing the tertiary tray (figures 5F and 6A).

**As to claim 15,** Smethers et al. also teach selecting the second icon causing the second icon to be displayed in the main portion of the mobile device display (figures 5F and 6A).

**As to claim 16,** Smethers et al. teach displaying the second icon in the main portion of the mobile device display including removing the first icon from the main portion of the mobile device display (figures 5F and 6A).

**As to claim 17,** Smethers et al. teach displaying the second icon in the main

Art Unit: 2179

portion of the mobile device display including moving the first icon in the main portion of the mobile device display (figures 5A-D).

**As to claim 19**, Smethers et al. teach a tertiary tab linking to the tertiary tray (figures 5C).

**As to claim 21**, Smethers et al. teach the mobile device display being included in a mobile device (figure 5A).

**As to claim 22**, Smethers et al. teach highlighting a first icon in a main portion of the mobile device display (figures 5A-D); traversing the main portion to a tertiary tray, the tertiary tray including at least one scroll button and a second icon (page 3, 0038, figure 5A, 501); and highlighting the second icon, wherein a single navigation key is used to traverse the main portion and to highlight the second icon (figures 4A-D, page 4, 0049);

traversing the tertiary tray to highlight the scroll button (figures 5A-D, pages 6-7, 0062-0066); selecting the scroll button such that a third icon is displayed in the tertiary tray (figures 5A-D); and selecting the third icon, wherein selecting the third icon initiates a corresponding application (figure 5F).

#### **Response to Arguments**

Applicant's arguments with respect to claims 1, 18 and 22 have been considered but are moot in view of the new ground of rejection.

Art Unit: 2179

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached at 571-272-4847.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran

Art Unit 2179

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PRIMARY EXAMINED